

**NORTH DAKOTA UNIVERSITY SYSTEM
PROCEDURES MANUAL**

Subject: STUDENT AFFAIRS

Effective: December 9, 2016

Procedure: 504 Residency for Tuition Purposes

PROCEDURE:

1. Residency for tuition purposes will be determined by using the definitions set forth in NDCC section 15-10-19.1. Pursuant to section 15-10-19.1, a resident student for tuition purposes is:
 - a. A person whose custodial parent, guardian, or parents have been a legal resident of North Dakota for twelve months or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. A person eighteen years of age or older who has been a legal resident of North Dakota for twelve months immediately prior to the beginning of the academic term;
 - c. A person who graduated from a North Dakota high school;
 - d. A full-time active duty member of the armed forces, a member of a North Dakota national guard unit, a member of the armed forces reserve component stationed in North Dakota, or a veteran as defined in NDCCC section 37-01-40;
 - e. A spouse or a dependent of a full-time active duty member of the armed forces, a member of a North Dakota national guard unit, a member of the armed forces reserve component stationed in North Dakota, or a veteran as defined in NDCC section 37-01-40, provided the veteran is able to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [39 U.S.C. 3301];
 - f. A benefited employee of the North Dakota university system;
 - g. A spouse or dependent of a benefited employee of the North Dakota university system;
 - h. The spouse of any other person who is a resident for tuition purposes;
 - i. Any other person who was a legal resident of this state for at least three consecutive years within six years prior to the beginning of the academic term; or
 - j. A child, stepchild, widow, or widower of a veteran as defined in NDCC section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected cause, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
 - k. A covered individual as defined by section 702 of Public Law No. 113-146 [128 Stat. 1797; 38 U.S.C. 3679].

2. Definitions.
 - a. "Dependent" means only a person claimed as a dependent on the most recent federal tax return.
 - b. "Spouse" means both parties to a marriage recognized by the state of North Dakota including those subject to an order of legal separation, but not divorced persons.

3. NDCC Section 54-01-26 governs determination of legal residency. Legal residence must be based on an actual physical residence in North Dakota plus an intent to consider this state as a home and legal residence for a substantial period of time. Physical residence in the state for only the special or temporary purpose of attending an institution of higher education, without any assumption of the general responsibilities of legal residency, does not qualify one for legal residency. Nevertheless, a student attending a North Dakota institution of higher education is not precluded from proving legal residency simply because that is the student's primary or exclusive pursuit for a period of time. It is not necessary to show gainful employment or an off-campus residency to prove legal residency, although they may be helpful; what is more important is a showing that some of the significant responsibilities or rights of legal residency enumerated in subsection 4 have been assumed or exercised, or even more importantly, that they have not been countered during a period of legal residency claimed in North Dakota by express acts indicating a legal residency in another state. Generally, because making false statements in a residency application is a crime, an applicant's signature is sufficient guarantee that information in the application is accurate. However, university system employees may, at their discretion, require additional documentation.
4. Legal residence in the State of North Dakota includes, but is not necessarily limited to the following responsibilities and rights:
 - a. To vote in general or special elections in the State after 30 days of residence in the precinct (and assuming U.S. citizenship). See NDCC Section 16-01-03
 - b. To obtain a North Dakota driver's license before operating any motor vehicle in this State after more than 60 days of residency. See NDCC Section 39-06-02
 - c. To obtain a North Dakota license for any motor vehicle owned or operated after beginning residency in this State. See NDCC Section 39-04-18
 - d. To file a North Dakota resident's income tax return with the State Tax Department reporting any income derived from within this State. See NDCC Sections 57-38-01-(10) and 57-38-31
 - e. To obtain a North Dakota resident game or fishing license after 6 months of residency in the State. See NDCC Sections 20.1-01-02(4) and 20.1-03-05
5. Given the academic tradition of recess or vacation periods for holidays, between terms, and during the summer, a student's visits to other states during these periods are not indicative of a lack of legal residency in North Dakota; in fact; NDCC Section 54-01-26 expressly allows absences for "special or temporary purposes." A student's return from North Dakota to a former state of residence for a period of several months (such as an entire summer), however, when combined with the abandonment of a place of residency in this State indicates abandonment of legal residency in North Dakota. Proof of either the retention of a place of residence in North Dakota during the absence (e.g., by rent receipts), or of a special or temporary purpose for the absence, is required in the event of such a prolonged absence. For example, participation in an internship experience or an exchange program in a state of origin that was an acceptable part of the student's academic program at a North Dakota institution of higher education is considered a special or temporary purpose.
6. International Students.

- a. To qualify as a North Dakota resident, international students who are not refugees must have an Alien Registration Receipt Card (Green Card) proving permanent residency or immigrant status and must meet all other North Dakota residency requirements for tuition purposes.
- b. Refugees holding I-94 visas bearing endorsement by the Immigration and Naturalization Service and showing they have been paroled indefinitely, or have been granted indefinite voluntary departure or conditional entry, shall be treated as residents of the United States when applying for North Dakota residency for tuition purposes. In all other respects they must meet the requirements of NDCC Section 15-10-19.1. Time spent in North Dakota prior to being granted I-94 status shall not be counted towards the one year requirement for residency status for in state tuition.

REFERENCE: SBHE Policy 504

HISTORY: Chancellor's Cabinet, June 2001.
Chancellor's Cabinet, August 18, 2005.
Chancellor's Cabinet, May 6, 2009.
Chancellor's Cabinet, May 2, 2011.
Chancellor Approved, June 25, 2013.
Chancellor's Cabinet, December 9, 2016.